



January 22, 2021

Paul E. Asfendis

Director

GIBBONS P.C.

One Pennsylvania Plaza- 37th Floor

New York, New York 10119

RE: Rouviere v. Stryker, et al, Case No. 18-4814-Civ-LJL (S.D. N.Y.)

Dear Paul:

I first want to introduce myself to you. I will be entering an appearance as co-counsel on behalf of the Rouvieres, so please be sure to include me on your service list and keep me in the loop on correspondence going forward.

Further, I am writing to let you know that Plaintiffs learned for the first time this week that you/your firm requested and obtained tissue specimens of Jodi Rouviere from Baptist Hospital in November 2019. Based on the documents we received from Baptist Hospital, your firm submitted an executed HIPPA form by Ms. Rouviere in which Ms. Rouviere identified only the law firm Barnes & Thornburg to Baptist Hospital. Please see the attached documents.

In reviewing our records, we find no record of you or your firm informing the Rouvieres or their counsel that you/your firm were requesting those specimens or that you/your firm had obtained those tissue specimens from Baptist Hospital in 2019. We also did not locate any record of Jodi Rouviere providing a release to you or your firm to obtain those tissue specimens at that time. (There was a release for your firm a year later in November 2020, but, again, no record of your firm advising the Rouvieres that you were requesting or had actually previously obtained specimens in 2019).

I also note that in 2020, you demanded that the Rouvieres provide specimens to you and sought court intervention compelling them to provide the specimens to you, yet you failed to mention to the Court or the Rouvieres that you had already directly obtained the tissue specimens from Baptist in 2019.

At a minimum, it does seem this would fall within your continuing duty to supplement discovery responses and Initial Disclosures, so, we are at a loss for why you would not have informed the Rouvieres or their counsel that you had obtained tissue specimens over a year ago (and without authorization).

Given the above, please confirm whether you did obtain specimens from Baptist in 2019 and whether I am missing any documents or correspondence pursuant to which you or your firm were authorized to obtain the tissue specimens at that time. In the event you did obtain the tissue specimens, please provide the documentation or emails reflecting that you informed the Rouvieres or their counsel you had obtained those tissue specimens in 2019.

Finally, if you did obtain tissue specimens at any time, please let me know the status of those tissue specimens at the present time (meaning, whether you still have them), and whether you have a report(s) or documents relating to them).

I am available to discuss if you would like to have a call. Let me know.

Sincerely,

Melissa Damian Visconti

Melissa Damian Visconti

cc: Andre Rouviere (*via email*)

**FAX COVER SHEET**

TO	
COMPANY	
FAX NUMBER	17865968782
FROM	Shiva Khansari
DATE	2019-10-28 08:18:38 EST
RE	Jodi Rouviere: DOB 10/31/71 - Tissue Sample Request

COVER MESSAGE

Hi Carrie,

Thank you for speaking with me on Friday. As per our conversation attached is an authorization to obtain tissue samples from the 11/11/16 and 2/16/17 surgeries. Please let me know if you need anything else.

Thanks again,

Shiva

Shiva Khansari
Paralegal
Gibbons P.C.
One Penn Plaza, 37th Floor
New York, NY 10119-3701
Phone: (646) 884-7863
Fax: (212) 554-9655
Email: skhansari@gibbonslaw.com

2019-10-28 08:18:04 EST

12125549655 From: Shiva Khansari

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION

**(Pursuant to the Health Insurance Portability and
Accountability Act "HIPAA" of 4/14/08)**

**TO: Baptist Hospital
8900 North Kendall Drive
Miami, Florida 33176**

Patient Name: Jodi Rouviere

DOB: 10/31/1971

SSN: xxx-xx-5680

I, Jodi Rouviere, hereby authorize you to release and furnish to: Barnes & Thornburg LLP copies of the following information:

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctors' handwritten notes, and records received by other physicians. Said medical records shall include all information regarding AIDS and HIV status.**
- * All autopsy, laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, echocardiogram and cardiac catheterization reports.**
- * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos.**
- * All pharmacy/prescription records, including NDC numbers and drug information handouts/monographs.**
- * All billing records including all statements, itemized bills, and insurance records.**
- * IMPORTANT: This authorization does NOT authorize the disclosure of mental health records.**

1. To my medical provider: this authorization is being forwarded by, or on behalf of, attorneys for the defendants for the purpose of litigation. You are not authorized to discuss any aspect of the above-named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.
2. I understand that the information in my health record may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.
3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and present my written revocation to the health information management department. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire in one year.
4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in CFR 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.
5. A notarized signature is not required. CFR 164.508. A copy of this authorization may be used in place of an original.

Print Name: Jodi Rouviere (plaintiff)

Signature: Jodi Rouviere

Date: 3/20/19



**Baptist
Hospital**

BAPTIST HEALTH SOUTH FLORIDA

Pathology Department
8900 N. Kendall Drive, 5-MCVI
Miami, FL 33176
Tel: 786-596-6525
Fax: 786-596-5986
BaptistHealth.net

November 7, 2019.

Shiva Khansari
Paralegal
Gibbons, PC
One Penn Plaza, 37th Floor
New York, NY 10119-3701

Fax: 212-554-9655

STATEMENT

Re: **Jodi Rouviere -**

Slide(s) on above
patient:

BHS-17-02298

2 slides @ \$35.00/slide

\$ 70.00

BHS-16-15059

1 slide @ \$35.00/slide

\$ 35.00

TOTAL DUE

\$105.00

Please make check payable to: Baptist Hospital of Miami – Tax ID No: 59-0910342

The slides will be released on receipt of your check in the amount of \$105.00.

Sincerely

Pathology Department



**Baptist
Hospital**

Department of Pathology

SURGICAL PATHOLOGY REPORT

PATIENT: Rouviere, Jodi L

Hosp. No: 165159B / 900354082

DOB: 10/31/1971 Age: 45 Sex: F

SPECIMEN NO: BHS-16-15059

Collect Date: 11/11/2016

Received Date: 11/12/2016

Location: 4474ONW3128

Ordering Physician: Carlos M Alvarado, M.D.

8950 SW 88 St., #507W
Miami, FL 33176

Copies to:

Procedure: Right total hip revision

Pre-Operative: None Given

Post-Operative: None Given

Clinical History: None Given

Specimen: A. Right hip bursa; B. Right hip explant femoral head and liner

GROSS:

- A. Specimen labeled right hip bursa is received in formalin and consists of 3 x 3 x 0.9 cm of tan-pink, focally hemorrhagic segments of soft tissue with focal black areas. Representative sections are submitted (1).
- B. Specimen labeled right hip explant femoral head and liner is received fresh and consists of a 4.8 cm, silver femoral cup, a 4.1 cm, white femoral cup insert with an associated 2.7 cm, pink femoral ball. Also received is a 1 cm in diameter silver screw-like object. No sections are submitted. Patient requests implants.

RK/am

FINAL DIAGNOSIS:

A. Tissue from right hip:

Synovium and subsynovial connective tissue with pigment deposition, papillary hyperplasia, fibrosis and fibrin deposition.

B. Hardware, (gross).

DR/jh

Daniel Rubin, M.D.

Electronically signed Nov 14, 2016 3:48PM

COMPREHENSIVE PATHOLOGY ASSOCIATES, P.A.

Baptist Hospital of Miami

8900 North Kendall Drive • Miami, Florida 33176-2197

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